

6/7/02

**THIS DISPOSITION
IS NOT CITABLE AS PRECEDENT
OF THE T.T.A.B.**

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re iLine, LLC

Serial No. 75/621,298

Samuel Fifer for iLine, LLC.

Kelly A. Choe, Trademark Examining Attorney, Law Office
113, (Odette Bonnet, Managing Attorney).

Before Hanak, Wendel and Bucher, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge:

iLine, LLP (applicant) seeks to register ILINE in
typed drawing form for "telecommunications services,
namely, the international electronic transmission of voice
and facsimile data over data lines using the global
computer network." The intent-to-use application was filed
on January 13, 1999.

Citing Section 2(e)(1) of the Trademark Act, the
Examining Attorney has refused registration on the basis

that applicant's mark ILINE is merely descriptive of applicant's services.

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As has been stated repeatedly, "a term is merely descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods [or services]." In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978)(emphasis added). Moreover, the immediate idea must be conveyed forthwith with a "degree of particularity." In re TMS Corp. of the Americas, 200 USPQ 57, 59 (TTAB 1978); In re Entenmann's Inc., 15 USPQ 750, 751 (TTAB 1990), aff'd 90-1495 (Fed. Cir. February 13, 1991). Finally, the mere descriptiveness of a mark is determined by considering the mark in its entirety, and not considering just the component parts of the mark. Abcor Development, 200 USPQ at 218. See also In re American Fertility Society, 188 F.3d 1341, 51 USPQ2d 1832, 1836 (Fed. Cir. 1999).

It is the position of the Examining Attorney that "I LINE [is] understood to mean INTERNET LINE," and that the term INTERNET LINE is clearly descriptive of "telecommunications services, namely, the international

electronic transmission of voice and facsimile data over data lines using the global computer network." (Examining

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Attorney's brief page 8).

In an effort to show that the letter I is synonymous with the word INTERNET, the Examining Attorney has made of record only two pieces of evidence. First, the Examining Attorney has submitted a photocopy of a page from the Illustrated Computer Dictionary for Dummies (4th ed. 2000) where the letter "i" is defined as follows: "The prefix for all things Internet, as in iMac. A second cousin to e, which is more prominently used, though i is more accurate because everything e happens on the i, Internet. See also e." Second, the Examining Attorney has submitted a press release dated April 14, 1998 from States News Service which contains the following sentence: "'I lines will not only carry voice, but also cable, and video,' said Sarah Hofstetter, Vice President of Corporate Communications at IDT Corp."

We will deal with the Examining Attorney's second piece of evidence first. This piece of evidence is not a news story, but rather is simply a press release put out by

States News Service on behalf of IDT Corp. Because the Examining Attorney has not established that this press

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release was ever carried by any publication and thus was exposed to the public, it is entitled to no evidentiary value. Indeed, given the vast expanse of the Nexis data base, we presume that had this press release been carried by a publication, that publication using the term "I lines" would have been picked up in the Examining Attorney's search.

With regard to the dictionary definition made of record by the Examining Attorney, applicant notes that it could not find one other dictionary which listed the letter I (in either lower or upper case) or listed the term "I lines" (whether depicted as one or two words).

This Board has conducted its own independent search of all available computer dictionaries in the trademark library of the USPTO. Simply by way of example, some of the dictionaries consulted include the following: Webster's New World Dictionary of Computer Terms (8th ed. 2000); Barron's Dictionary of Computer & Internet Terms (7th ed.

2000); The Computer Glossary (2001); Dictionary of Computer Science Engineering and Technology (2001); The Computer

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Dictionary (1998); Microsoft Press Computer Dictionary (1997); and the Dictionary of Personal Computing and the Internet (1997).

In addition, we have also consulted the Acronyms, Initialisms & Abbreviations Dictionary (29th ed. 2001). This is a massive work comprising seven volumes with over 20,000 pages. The comprehensive nature of this work is demonstrated by the fact that the letter I is listed as having over 280 definitions. However, not one of these 280 definitions means "Internet," or anything like Internet. To be precise, the term "i-line" appears in this work. However, this work defines this term as a photo-journalism expression meaning "identification line."

Obviously, applicant is not seeking to register INTERNET LINE. Rather, applicant is seeking to register ILINE. Thus, as the Examining Attorney agrees, the issue before us is whether the letter I (whether depicted in lower or upper case) is so generally understood as

representing the term INTERNET so as to be substantially synonymous therewith. This test for determining whether a letter or series of letters is merely descriptive was

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established by the predecessor to our primary reviewing Court in Modern Optics, Inc. v. Univis Lens Co., 234 F.2d 504, 110 USPQ 293 (CCPA 1956). This test is as follows:

It does not follow, however, that all initials of combinations of descriptive words are ipso facto unregistrable. While each case must be decided on the basis of the particular facts involved, it would seem that, as a general rule, initials cannot be considered descriptive unless they have become so generally understood as representing descriptive words as to be accepted as substantially synonymous therewith. 110 USPQ at 295 (emphasis added).

The Modern Optics rule for determining whether initials are merely descriptive has been favorably received by other Courts of Appeal. See Anheuser-Busch, Inc. v. Stroh Brewery Co., 750 F.2d 631, 224 USPQ 657, 659 (8 Cir. 1984) ("We find the reasoning of Modern Optics persuasive."); G. Heileman Brewing Co. v. Anheuser-Busch Inc., 873 F.2d 985, 10 USPQ2d 1801, 1808 (7 Cir. 1989). Of course, this Board would be bound to follow the rule of

Modern Optics regardless of its favorable reception by other circuits.

Based upon this record, we find that the Examining Attorney has simply failed to establish that the letter I

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is substantially synonymous with the term INTERNET. The one dictionary definition relied upon by the Examining Attorney is simply outweighed by the plethora of other dictionaries consulted by this Board which do not list any definition for the letter I. Indeed, even the massive 20,000 page Acronyms, Initialisms & Abbreviations Dictionary (29th ed. 2001) does not define the letter I as meaning INTERNET, although this work provides over 280 other definitions for the letter I. In short, the Examining Attorney has simply failed to prove her contention that the evidence "clearly shows that the wording ILINE [is] understood to mean INTERNET LINE." (Examining Attorney's brief page 8). Accordingly, we find that applicant's mark in its entirety (ILINE) is simply not descriptive of "telecommunications services, namely, the international electronic transmission of voice and

facsimile data over data lines using the global computer network," and hence reverse the refusal to register.

One final comment is in order. At page 6 of her brief the Examining Attorney contends that "the Board has recognized that the letter I is generally understood to

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mean Internet." In support of this proposition she cites In re Zanova Inc., 59 USPQ2d 1300 (TTAB 2001) wherein the Board held that the mark ITOOL was merely descriptive for "computer services, namely, providing custom services for web sites and design of web sites for others" and for "computer software for use in creating web pages."

However, the evidentiary record in Zanova was dramatically different from the current evidentiary record. Not only did the record in Zanova include numerous articles wherein the term "Itool" was used descriptively, but more importantly, the Board noted that "applicant concedes that 'I' or 'i' can mean 'Internet.'" 59 USPQ2d at 1304. In stark contrast, the current applicant has in no way conceded that the letter I (whether depicted in upper or lower case) means Internet.

Decision: The refusal to register is reversed.

